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Department of [illegible]

OFFICE [illegible]

STATION [illegible]

No. 3

Dated 3-1-39 ~~23-12-38~~

R No 9

Pages in the file

(SUBJECT.)

[illegible]

Revenue Department.

MEMORANDUM No. 4505-F/38-1 DATED 4TH JUNE 1938.

Subject:- Trees - South Kanara - Roads and road margins within Reserved Forests - Right of District Board.

Copies of letter Reference C.No.801/37.A.5 dated 27th August 1937 from the President, District Board, South Kanara and of letter No.10252.37.D.3 dated 22nd April 1938 from the Chief Conservator of Forests are forwarded to the Board of Revenue. As apparently the trees and the jungle growth were cut down and removed from the unreserved land, the question would appear to concern the Revenue Department primarily. The Board is requested to obtain a report from the Collector in the matter and to submit it to the Government with its remarks.

2. The value of the trees cut down and the jungle growth removed should also be reported.

T.M.S.Mani,

Under Secretary to Govt.

To the Board of Revenue (with enclosures)

Forwarded.

(By order)

V. Narasimhan

Superintendent.

FFG.6/6.

Copy of Reference C.No.801/37/A5 dated 27th August 1937 from the President, District Board, South Kanara.

Trees - Road porambokes - passing through reserved forests - right of District Board - instructions solicited.

I have to bring to the notice of the Government that the Forest Department claims ownership of trees and tree growth on the margins of District Board Roads passing through reserved forests. The District Forest Officer who was addressed in this matter bases the claim on the authority of Government Order No.2801 Revenue dated 21-11-1935. I place before the Government the following concrete cases where such claim is made.

PR.4545 28.11.35

2. Two jack trees standing on the road poramboke in mile 29/1 of Kasargod-Jalsur Road No.8, passing through the reserve forest have been got cut and removed by the Forest Department. The District Forest Officer Mangalore South who was consulted in the matter states that in view of Government Order No.2801 Revenue dated 21-11-1935 it is the Government which have the right of ownership in trees standing on roads vested in local bodies and which pass through Government lands and that this Government Order refers in general to all roads passing through both in reserve and unreserve forests.

3. In another case it has been found necessary for the District Board to cut and remove the jungle growth along nearly 12 miles of the abovesaid Kasaragod-Jalsur Road No.8. But the District Forest Officer Mangalore South informs me that the jungle growth has to be handed over to the Forest Department after it is got cut.

4. It would appear in view of the two instances quoted above that the District Board has practically no control over the trees standing on road margins passing through reserve forests.

5. I would however, request the Government to be pleased to pass orders permitting the District Board to exercise the same control over the trees in road poramboke passing through reserve forests as in the case of other roads in the district in kind consideration of the following points.

(a) Government Order No.2801 Revenue dated 21-11-1935 has been further clarified by the Government in their Endorsement No.37985-I C 1 dated 5th December 1936 which lays down that the Government claim only a legal right over the road marginal trees and that they would not interfere with the local bodies so long as they utilise the trees for affording amenities to the travelling public. Since therefore, the District Forest Officer Mangalore South is of opinion that the Government Order No.2801 Revenue dated 21-11-1935 is applicable to trees both in reserve and unreserve. The subsequent Government Endorsement No.37985-1 C1 dated 5th December 1936 should also be made applicable to cases of trees standing on the road margins both in reserve and unreserve so as to enable the District Board to remove the trees along the margins of roads passing through reserve forests in the district whenever they are found objectionable in the interest of such roads.

(b) Further the jungle growth removed from such reserve forest road margins are often found necessary for repairing damaged brushwood and other culverts. I think, the expenditure incurred by the District Board in cutting down jungle trees in the interest of roads should be compensated atleast by the sale proceeds of the cut materials. After all, the roads in reserve areas are mostly used by the Forest Department itself.

6. In view of the circumstances stated above, I would request the Government to be pleased to pass a definite ruling on the subject.

Copy of Reference No.10252-37-D3 dated 22nd April 1938 from the Chief Conservator of Forests.

Roads - South Kanara - District Board roads - within Reserved Forests - tree and growth on .
Refce:- Government Endt.No.4124-I/37-1 dated 24-11-37.

The President of the District Board, South Kanara, complains of two cases of interference by the Forest Department in cases of fellings made on road-side margins in Government

land other than Reserved Forest.

2. Government's instructions in such cases are contained in 2 G.Os.

G.O.No.2801 Ms. Revenue dated 21st November 1935 states that such trees are the property of Government but that Government do not propose to interfere with the local bodies control of them. G.O.No.2352 Ms. Revenue dated 2nd November 1936 further explains that Government have no wish to interfere with the sale of usufruct or windfalls or even the disposal of the timber of such trees provided that they become available for sale merely in the ordinary course and have not been felled with the deliberate wish to raise revenue.

3. On examining the two cases mentioned by the President of the District Board, and judging by these criteria, I find that in the first case 2 teak trees (not two jack trees as stated by the President, apparently by a typographical mistake,) were felled by the District Forest Officer on the margin of the Kasaragod-Jalsur road passing through Parappa Reserved Forest but excluded from the reservation of the said forest to a width of 22 yards on either side from the centre of the road or in other words on unreserved land the property of Government.

The trees were felled in the course of departmental timber operations and the object of felling them was to raise revenue. A certificate had been furnished by the Village Karnam to the effect that the trees were on Government Land and it seems clear that they were Government property.

In the second case, the District Board had removed jungle growth along 15 miles of the said road margin and the District Forest Officer claimed the right to the produce. On enquiry the District Forest Officer has contested that removals on so big a sclae were not in "the ordinary course of events" contemplated in the G.Os. The President of the District Board however, feels that the fellings were made in the interest of proper road-maintenance, and that the monetary proceeds should belong to the District Board.

5. own comment is as follows:-

The Government's right to the trees, is absolute, and they have stated that they wish to retain control. Little, if any, control can be exercised, unless some Department is made definitely responsible for supervising the actions of the District Board in respect of the trees. Where the road margins are simply "enclosures" within Reserved Forest, excluded at Settlement, I think the Forest Department, should have such responsibility. And since such enclosures, in South Kanara have not been separately demarcated, but have, on the other hand, always been protected by the Forest Department, (indeed, in many cases, the trees have been actually planted by us), I think the Forest Department should realise the revenue from the sale of trees that may be cut.

Where the road passes through a block of unreserve it is impracticable for the Forest Department to ~~mark~~ exercise adequate supervision on behalf of Government. But I think it would be left to the forest department to mark for felling such trees as may have to be felled on a large scale, restricting enjoyment by the District Board to windfalls, and the occasional trees which have to be felled for local safety. Without some such provision, it is impossible to prevent the District Board felling trees to augment their funds which Government does not intend to permit. If the District Board knows that they cannot have the sale proceeds, they will not spend their funds on felling more than is necessary.

(S. Kanara) - Road

Trees ~~Roads and road margins~~ and road margins within ~~South Kanara~~ Roads inside reserved Forests. Rights of the Dt. Board.

B. 437/6.38. Govt. Rev. Memo. 4505 F.38.1 4.6.38

Ref B. 437/6.38.1 Dt 22.6.38

Copies of letter refce. C.no. 801/37-A.5 Dt 27.8.37 from the presidents Dt. Board, South Kanara and of letter No. 10252-37.D3 Dt. 22.4.38 from the C.C. of Forests are forwarded to the Collr. of South Kanara.

As apparently the trees and the jungle growth were cut down and removed from the unreserved land, the question would appear to concern the Rev. Dept. primarily. The Collr. is requested to submit a report in his monthly ~~on this point~~ and offer his remarks on the points raised by the President Dt Board. The value of the trees cut down and the jungle growth removed should be reported also.

To The Collr. of South Kanara. with encls. [pp. 3-6 of b be copied and sent.]

SPATE 28 JUN 1938 with encls

R. 22.7

16/6/38

16/6

20/6/38

Ref.No.4065-B1-38.

South Kanara Collector's Office,
Mangalore, 23rd August 1938.

BOARD OF REVENUE
23 AUG 1938
MADRAS

Sri Rao Bahadur M. V. Vellodi, B.A.,
Collector of South Kanara.

To

The Secretary to the Board,
Land Revenue & Settlement,
M a d r a s.

Sir,

Trees - (South Kanara) - Road and road margins within reserved forests - Rights of the District Board - Report submitted.

*****

Board's Reference B.No.4376-38-1, dated 22.6.1938.

*****

The term Jack trees referred to in paragraph 2 of the President, District Board's letter C.No.801-37-A5, dated 27th August 1937, is evidently a mistake for teak trees. Two teak trees which stood on land registered as road poramboke in mile 29/1 of Kasargod-Jalsur road were felled by the Forest Department. Though the plot is registered as road poramboke, the trees stood on the road margin. According to G.O.No.Ms.2801 Rev., dated 21.11.1935, the ownership of trees standing on roads vested in local bodies, which pass through Government lands, rests with the Government; and the local bodies have been permitted to exercise only control over them. G.O.No.Ms.2352 Rev., dated 2.11.1936, explains the intention of the above G.O., and allows to the local boards only the privileges at present enjoyed by them under certain conditions. It is only in the case of dead or wind-fallen trees, or of trees removed as dangerous to traffic that the Government would waive their claim for tree value. The trees in this case were felled by the Forest Department during the course of departmental timber operations. They were neither dead, nor wind-fallen, nor removed as dangerous to traffic. The

District Board had only the control and privileges over the trees, as specified in the 2 G.Os. referred to above, but not the right of ownership. I do not, therefore, think that the felling of the trees by the Forest Department has caused the District Board any hardship. The President, District Board seems to be under the mistaken impression that with reference to G.O.No.Ms.2352 Rev., dated 2.11.1936, the Government have only a legal right over the trees on the road margin, and that the District Board is at liberty to utilise the trees for affording amenities to the public. The actual value of the trees is not known, as they were felled long ago, converted into logs and transported for sale along with other trees similarly felled. The District Forest Officer, Mangalore South, however, estimates the value at Rs.35/-.

(V)

2. The jungle growth referred to in paragraph 3 of the President, District Board's letter has not yet been cleared. The President, District Board proposed to cut and remove jungle growth existing along nearly 15 miles of the above-said Kasargod-Jalsur road, for the reason that the jungle trees over-hanging the road on both the sides rendered the road always slushy and that the road surface was being spoiled thereby. The clearance of the tree growth is for the benefit of the road, and it is not known why the District Board should grudge to credit the sale proceeds to the Forest Department. The fact that the ownership of the tree-growth rests with the Government is no reason why the District Board should claim a right to the sale proceeds. The value of the jungle growth is not known in this case. The District Forest Officer states that it is not possible to estimate the value unless the ----- particular locality where the clearing will be done is known and an inspection made.

3 C

For Collector.

23-1-38

11

DRAFT FOR APPROVAL. M1 7108

	Date.	Initials.
When received for fair copying ..	28/9	Js.
When copied ..	3.10	
When examined..	3/10/38	AB EKT.
When signed	3/10	
When despatched.	5-OCT1938	

SUBJECT:— Trees — (South Kanara) — Road and Road margins within reserved forests — Rights of the Dt Board — Report submitted.

READ AGAIN ____, dated ____ 19____.

" " ____ " ____ 19____.

READ *ALSO*:—

B No. 4326/38 From the Revenue Sept Memorandum No. 4805/F1/38-1 dated 4/6/38

A " 5150/38 " Coll of South Kanara 4065/28 d 23/8/38 (1 Cy)

" ____ " ____ " ____ " ____ 19____

Order / Resolution — Ms. / Rout. No. Ref A 5150/38-2 dated 28/9/38.

Submitted to the Govt

2/ The Board considers that the claim of the Dt Board to the jungle growth and the value of the two teak trees is untenable.

A
27/9/38

W
26/9

K G
27/9/38

Issue 14/10/38

To the Secy to Govt
Revenue Dept

12

A 57/6/28 [illegible]
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M/17/4

A6737 / 7462

Received.....1938. Registered.....SEC1938.

12 DEC 1938

Abstract.

Trees - (South Kanara) - Trees on the margin of the Kasaragod - Jalsur Road - Claim of the District Board., South Kanara - Orders passed.

Revenue Department.

G.O. Ms.3126 Dated 8th December 1938.

Read the following:-

G.O.No.2352 Rev.dated 2-11-1936.
" 2801 " " 21-11-35.
From the President, District Board, South Kanara, Ref.C.No.801/37-A5 dated 27-8-1937.
Development Department Memorandum No. 4124 1/37-1, dated 24-11-37 to the Chief Conservator of Forests.
From the Chief Conservator of Forests, Ref.No. 10252-37-D3, dated 22-4-38.
Revenue Department Memorandum,No.4505 F/38-1, dated 4-6-38 to the Board of Revenue.
From the Board of Revenue, Ref.A.No.5150/38-2 dated 28-9-1938.

O R D E R

In his letter read above, the President, District Board, South Kanara, has raised the question of the control to be exercised by the District Board over trees on roads passing through reserved forests in the South Kanara district and he has submitted two concrete cases for the orders of the Government. He has reported that in one case two jack trees on the margin of the Kasaragod-Jalsur road had been cut by the Forest Department and that in another case where the District Board proposed to cut and remove the jungle growth along nearly 15 miles of the same road, the District Forest Officer, Mangalore South, had demanded that the jungle after removal, should be handed over to the Forest Department. The President, District Board, South Kanara, requests that the District Board should be permitted to remove the trees on the margin of roads passing through reserved forests in the district whenever such removal is necessary in the interests of such roads and that the sale proceeds of the jungle growth should be appropriated by the District Board

From the Private Secretary, Chief Secretary,
Ref.C.O.No. 1/27-AS dated 27-3-1939.
Development Department Memorandum No.[illegible]
4124 1/37-1, dated 24-1-39 to the
Chief Conservator of Forests.
From the Chief Conservator of Forests, Ref.No.
10282-37-D3, dated 22-4-39.
Revenue Department Memorandum,No.4505 F/38-1, dated
4-6-39 to the Board of Revenue.
From the Board of Revenue, Ref.A.No.5150/38-
dated 29-8-1938.

O R D E R

In his letter read above, the President, District Board, South Kanara, has raised the question of the control to be exercised by the District Board over trees on roads running through reserved forests in the South Kanara district and he has submitted two concrete cases for the orders of the Government. He has reported that in one case two jack trees on the margin of the Kasaragod-Talaur road had been cut by the Forest Department and that in another case where the District Board proposed to cut and remove the jungle growth along nearly 15 miles of the same road, the District Forest Officer, Mangalore South, had demanded that the jungle after removal, should be handed over to the Forest Department. The President, District Board, South Kanara, requests that the District Board should be permitted to remove the trees on the margin of roads passing through reserved forests in the district whenever such removal is necessary in the interests of such roads and that the sale proceeds of the jungle growth should be appropriated by the District Board

as compensation for the expenditure incurred in cutting the trees.

2. The Government have examined the request of the President, District Board in consultation with the Chief Conservator of Forests and the Board of Revenue. The Chief Conservator of Forests has reported that the two teak trees (not jack trees as reported by the President, District Board.) were on the margin of the road passing through the Parappa Reserved Forest which is excluded from the reservation of the said forest to a width of 22 yards on either side from the centre of the road, and that the trees were felled during the course of departmental timber operations. There can be no doubt that the legal ownership of these trees is with Government. It is true that Government have declared their intention of not interfering as a rule with the District Boards in the matter of the control and usufruct of avenue trees. The Government observe, however, that teak trees are not normally avenue trees and that they are of value only as timber. They do not consider that the District Board has any right to claim the sale proceeds of such trees simply because they happened to stand within the boundaries of a road poramboke nor do they consider that the appropriation of the sale proceeds in this case by the Forest Department affects the finances of the District Board appreciably.

As regards the removal of jungle growth along the margin of the Kasaragod-Jalsur road, the Collector has reported that the District Board contemplated the removal of the growth for the reason that the trees overhanging the road on both sides rendered it slushy with the result that its surface was deteriorating and that the clearance was in the interests of road maintenance. The Government

18

[illegible] that the control of the Timber Reserves [illegible]
[illegible] to cover every operation necessary to keep [illegible]
[illegible] water conditions. They therefore consider [illegible]
[illegible] the District Board should be allowed to elect the [illegible]
[illegible] and appropriate the sale proceeds. Diversion of [illegible]
[illegible] on the large scale with a view to augmenting the
income of a District Board should not, however, be allowed.

(By Order of His Excellency the Governor)

B.G.Holdsworth,
Secretary to Government.

To the Board of Revenue.
" Chief Conservator of Forests (through Development.)
" President, District Board, South Kanara.
" Development Department.
" Local Administration Department.

\True Copy\

Forwarded.

(By Order)

K.V.N. Superintendent.

19 M, 7105 C.F. 16

DRAFT FOR APPROVAL.

	Date.	Initials.
When received for fair copying ..	8/1	
When copied ..	8-1-39	
When examined..	9/1/39	Ka/ka
When signed ..		
When despatched.		

SUBJECT:— Treas — (South Kanara) Road and Roadside within reserved forests — Rights of the Dist Board to Commutated

READ AGAIN ____, dated ____ 19____

" " ____ " ____ 19____.

READ ALSO

B No. 4376/38 From the Revenue Sept Memorandum No. 4505/7/38-1d, dated 4/6/38 M1-6cf

A " 5150/38 " Coll of South Kanara " 4065/38 d, 19 23/8/38 A

A " 6737/38 " Revenue sept " G.O. No. 3126 19 M9-10 8/12/38 cf A

~~Order~~ Resolution ~~Rout.~~ Ms. No. 3, dated 3. 1. 19 M13-9cf A 7/6

Communicated to the Collr of South Kanara.

Ka 22/XII

Ka 20/12

Ka 21/12/38

Issued 23/12/38

Issued 8/1/39

To the Coll of South Kanara / except 8/1/39

Copy to all other Collrs and Residents of Dist Boards

AS(CR)

To AS(CR)
draft submitted
27928
26/1

Read as Board's reference
No 5150/31-2 dated
28/9/38 Pg.

From the Revenue Dept
Go Ms 3126 Revenue
dated 8/12/38 Pg 13-

AS(CR)

To AS(CR)
Draft Subm

20/12

AS(LR)

CIRCULATION CHECK SLIP

B.P.No. Mis 3

Dated. 3/1/39

Single Member

Two Members.

Full Board.

I-A	A.D.S. & L.R.	Asst.Secy. L.R.	Sett.	Sep Rev.	J.S.Secy.	M/3	M/2	M/1

- -

(1) Open file seen by

(2) Final draft seen by

(3) Now circulated to.

(4) Initials.

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passed for record.

* Secretary

Joint Secretary.

A.S. (L.R.)

A.S. (Sett.)

A.S. (Sep.Rev.)

A.D.S. & L.R.

I-A.

**Note : ENTRIES NOT REQUIRED TO BE SCORED OUT.